IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO. 183 OF 1997

1. Smt. Sulochana Maharudra Swami)
2. Shri Uday Maharudra Swamy)
3. Prakash Maharudra Swamy)
4. Pratap Maharudra Swamy)
5. Sou. Pushpa Balaso Hiremath)
6. Sou. Mahananda Shivanand Hiremath) .... Appellants

versus

The State of Maharashtra)
through Special Land)
Acquisition Officer, Kolhapur) ..... Respondent.

.....

Mr. D.A. Nalawade for the applicant.
Mr. B.R.Patil AGP for Respondent.

.....

CORAM ; D.G. DESHPANDE, J.

DATED; 29TH MARCH, 2005.

ORAL ORDER;

1. Heard the advocate for the appellants and the AGP for the respondent. This appeal is filed by the original claimant challenging the order of the Reference court dismissing the Reference for enhancement of compensation.

2. 3500 sq. meters of land of the claimant was acquired for D.P.Road in Kolhapur. The land is in the heart of the town. However it was agricultural land. SLAO awarded Rs.4.5 per sq. ft. i.e. Rs. 45 per sq.

meter. The claimant contended that he was entitled to Rs. 150/- per sq. meter. However the Reference Court dismissed his claim petition on the ground that he was not able to prove any sale instances to substantiate his contention that he was entititled for enhancement.

3. The counsel for the appellant contended that the sale instances relied upon by the claimants were referred by the SLAO in the award but the court has not taken them into consideration.

4. A perusal of the award shows that under close valuation the SLAO has considered eight sale instances of the land in the visinity. The prices therein vary from place to place which ranges from 25% deduction to 60% deduction. The sale instances are of the relevant period i.e. prior to the Notification dated 18th July 1981. Sale instances at serial no.7 in the said award is of open plot admeasuring 573 sq. meters in Kolhapur. If the sale instances relied upon by the claimants were already in the SLAO then the claimant is justified in contending that the filing of the copies of those sale instances was not necessary. The dismissal of the claim petition on that ground by the Reference Court is not justified.

5. Therefore this is a case where the contention of the claimant is supported by the award itself. The sale instances as quoted above is for Rs. 122.03 per sq. meter, then the rate comes to Rs. 12/- per sq. ft. and the sale deeds are of 1980 i.e. prior to the Notification under section 4. Therefore, considering the sale deed and the location of the acquired land, the claimant is entitled to compensation at the rate of Rs. 15/- per sq. ft. In this view of the matter the impugned order is required to be set aside. Hence I pass the following order.

ORDER

6. The order of dismissal of the claim petition is set aside. The claimant is entitled to get compensation at the rate of Rs. 15/- per sq. ft. with interest and solatium as provided by law and also the costs of the trial court. No order as to costs in this appeal

xxxxx